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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

9400-37

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on **August 17, 2007**

Signature

Typed or printed name **Rosa Lee Brinson**

Application Number

10/732,784

Filed

December 10, 2003

First Named Inventor

Joseph Patrick Dennisson

Art Unit

2617

Examiner

Sharad K. Rampuria

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒

attorney or agent of record.

Registration number 42,011

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

D. Scott Moore

Typed or printed name

(919) 854-1400

Telephone number

August 17, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒

*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**RESPONSE UNDER 37 C.F.R. 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 2617**

Attorney's Docket No. 9400-37 (030079)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Dennison et al.

Confirmation No.: 6907

Serial No.: 10/732,784

Group Art Unit: 2617

Filed: December 10, 2003

Examiner: Sharad K. Rampuria

For: **METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR
TRANSMITTING STREAMING MEDIA TO A MOBILE TERMINAL USING
THE BANDWIDTH ASSOCIATED WITH A WIRELESS NETWORK**

Date: August 17, 2007

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REASONS IN SUPPORT OF APPLICANTS' PRE-APPEAL
BRIEF REQUEST FOR REVIEW AND INTERVIEW SUMMARY**

Sir:

This document is submitted in support of the Pre-Appeal Brief Request for Review filed concurrently with a Notice of Appeal in compliance with 37 C.F.R. 41.31 and with the rules set out in the OG of July 12, 2005 for the New Appeal Brief Conference Pilot Program, which have been extended indefinitely

No fee or extension of time is believed due for this request. However, if any fee or extension of time for this request is required, Appellants request that this be considered a petition therefor. The Commissioner is hereby authorized to charge any additional fee, which may be required, or credit any refund, to our Deposit Account No. 50-0220. Applicants hereby request a Pre-Appeal Brief Review (hereinafter "Request") of the claims finally rejected in the Final Office Action mailed May 17, 2007 (hereinafter "Final Action"). The Request is provided herewith in accordance with the rules set out in the OG dated July 12, 2005.

Applicants respectfully submit that the rejections of the currently pending claims are clearly erroneous because many of the recitations of the pending claims are not met by the

cited references for at least the reasons discussed herein and in Applicants' previously filed Amendment dated February 6, 2007. Therefore, Applicants respectfully request review of the present application by an appeal conference prior to the filing of an appeal brief. In the interest of brevity and without waiving the right to argue additional grounds should this Petition be denied, Applicant will only discuss the recitations of independent Claims 1, 12, and 23.

Interview Summary

Applicants wish to thank the Examiner for discussing the pending claims with Applicants' representative, Scott Moore (Reg. No. 42,011) on August 10, 2007. During the interview, no agreement was reached as to the patentability of the pending claims. Applicants respectfully request that the present remarks constitute an Interview Summary pursuant to MPEP §713.04.

Independent Claims 1, 12, and 23 are Patentable

Independent Claims 1, 12, and 23 stand rejected under 35 U.S.C. § 103 as being unpatentable over United States Patent Publication No. 2004/0057420 to Curcio *et al.* (hereinafter "Curcio") in view of United States Patent Publication No. 2003/0181160 to Hirsch (hereinafter "Hirsch"). (Final Action, pages 2 - 3). Independent Claim 1 recites, in part:

providing a wireless communication network that has bandwidth associated therewith to facilitate communication between at least one mobile terminal and another communication device;

obtaining authorization from a media broadcaster that provides streaming media to rebroadcast the streaming media over the wireless network;

obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media; then

transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network.

Independent Claims 12 and 23 include similar recitations. As highlighted above, authorization is obtained from a media broadcaster to rebroadcast streaming media over a wireless network. A subscription is obtained at the wireless network from one or more mobile terminals for the streaming media.

The Final Action alleges that Curcio teaches most of the recitations of Claim 1, but acknowledges that Curcio fails to disclose obtaining authorization from a media broadcaster to allow the streaming media to be rebroadcast over the wireless network and obtaining a subscription at the wireless network from the at least one mobile terminal that receives the rebroadcast of the streaming media. (Final Action, page 3). The Office Action alleges, however, that Hirsch provides the teachings missing from Curcio. (Final Action, page 3).

In particular, the Final Action cites paragraphs 19, 20, and 30 of Hirsch as providing the teachings missing from Curcio. These paragraphs describe the electronic media distribution system 10 of FIGS. 1, 2, and 4 of Hirsch. In sharp contrast to the recitations of independent Claims 1, 12, and 23, however, Hirsch does not disclose or suggest obtaining authorization from a media broadcaster to allow streaming media to be rebroadcast over a wireless network and/or obtaining a subscription at the wireless network from one or more mobile terminals that receive the rebroadcast of the streaming media. In more detail, while Applicants acknowledge that Hirsch discloses a wireless carrier network 48 that communicates with a broadcast provider 20 (Hirsch paragraph 19; FIG. 1), the wireless carrier network 48 is not used to rebroadcast media from the broadcast provider. Rather, the wireless carrier network 48 is used to provide a communication link between the media receiver 28 and the authentication/provisioning system 16. (Hirsch, paragraphs 30 - 31; FIGS. 2, 4, and 5). The wireless carrier network 48 along with the communications link 60 shown in FIGS. 1 and 4 of Hirsch are used to allow the authentication/provisioning server 54 shown in FIG. 1 of Hirsch to determine the geographic position of the media receiver and perform authorization/provisioning operations as discussed in paragraphs 30 - 41.

Applicants further note that the satellite antenna 24 shown in FIG. 1 of Hirsch is adapted to transmit broadcast transmissions to the satellite 18. (Hirsch, paragraph 19; FIG. 1). There is no disclosure or suggestion in Hirsch that the satellite antenna 24 may receive

broadcast transmissions from the satellite 18. Thus, Hirsch's distribution system 10 is incompatible with rebroadcasting transmissions from the satellite 18 over the wireless carrier network 48 as the broadcast provider 20 is incapable of receiving the transmissions from the satellite 18.

In response to these arguments, the Final Action in the "Response to Remarks" section alleges that "the ability to decode satellite television broadcast transmissions can be configured for descrambling broadcasts of local television stations re-broadcast by the broadcast provider 20 through the satellite broadcast system" (Hirsch, paragraph 39) corresponds to the following recitations of independent Claim 1:

...
obtaining authorization from a media broadcaster that provides streaming media to rebroadcast the streaming media over the wireless network;
obtaining a subscription at the wireless network from the at least one mobile terminal for the streaming media;


...
It appears that the Final Action is alleging that the local television station corresponds to the recited media broadcaster and the satellite system 18 corresponds to the recited wireless communication network. The first recitation of Claim 1, however, describes the wireless communication network as facilitating communication between at least one mobile terminal and another communication device. The satellite system 18 does not facilitate communication between one or more mobile terminals and another communication device. Moreover, Claim 1 recites that the subscription for the streaming media is obtained at the wireless network. Hirsch, by contrast, uses the wireless carrier network 48, not the satellite system 18, to carry out the authentication/provisioning of the media receiver 28 to allow the media receiver to descramble the local television broadcasts as discussed above. The rejection of the independent claims is, therefore, clearly erroneous for at least the reason that Hirsch does not disclose a single wireless network that is used for rebroadcasting streaming media and that one or more mobile terminals also use to obtain a subscription for the streaming media.

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Accordingly, Applicants respectfully submit that Hirsch fails to disclose or suggest, at least the recitations of independent Claims 1, 12, and 23 related to obtaining authorization from a media broadcaster to allow the streaming media to be rebroadcast over the wireless network and obtaining a subscription at the wireless network from the at least one mobile terminal that receives the rebroadcast of the streaming media, which are acknowledged in the Final Action as missing from Curcio.

For at least the foregoing reasons, Applicants respectfully request that the present application be reviewed and that the rejection of independent Claims 1, 12, and 23 be reversed by the appeal conference prior to the filing of an appeal brief.

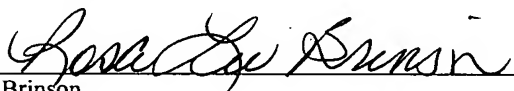
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Rosa Lee Brinson